

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

VIRGINIA HOPPER, )  
                          )  
Plaintiff, )  
                          )  
v. )                      Case No.: 2:07-cv-457-MEF  
                          )  
JACKIE GRAHAM, et al., )  
                          )  
Defendants. )

DEFENDANTS' MOTION TO EXTEND DATE  
FOR FILING DISPOSITIVE MOTIONS AND  
EXTEND LENGTH OF TIME FOR  
PLAINTIFF'S DEPOSITION

COME NOW the Defendants and move this Honorable Court to extend the date for filing dispositive motions in this cause to July 31, 2008, based upon the following grounds:

1. Pursuant to the Uniform Scheduling Order entered in this case, dispositive motions are due to be filed no later than May 30, 2008.
2. Defendants intend to file a motion for summary judgment based in part upon deposition testimony of the Plaintiff.
3. On April 29, 2008, Defendants attempted to take the deposition of the Plaintiff as previously scheduled at the office of Plaintiff's counsel. One of the initial questions posed to the Plaintiff was whether she had an illness or sickness that day which would prevent her from participating in the deposition.

In response, Plaintiff's counsel stated on the record that his client was on medication which affects her memory. The Plaintiff then testified that she was on five medications that may cause her some memory problems. She elaborated that, because of her medications, she knows what she wants to say but what she wants to say does not come to her exactly at the time she is attempting to answer questions.

4. The Plaintiff further testified that at the present time her physicians are not sure whether the medication she is taking is for a temporary illness. She further testified the five medications were prescribed to treat seizures, anxiety and depression and that she is currently under the care of physicians and other medical care providers.<sup>1</sup>

5. Due to Plaintiff's candid testimony that her daily dosages of five prescription medications may affect her memory if she continued to testify under oath on April 29, 2008, as well as the Plaintiff's counsel's representation that Plaintiff was on medication which affects her memory, defense counsel felt compelled to adjourn the deposition until such time as one or more of Plaintiff's treating physicians can be deposed in order to determine the extent and duration

---

<sup>1</sup> If the Court wishes to obtain specific information about Plaintiff's medications and physicians, it can be provided. For the purposes of this Motion, defense counsel is attempting to maintain the privacy of the Plaintiff's personal medical information to the extent possible.

of any memory problems being experienced by the Plaintiff.

6. In order to complete discovery and fully support their summary judgment motion and based upon the unanticipated inability of defense counsel to fully depose the plaintiff as scheduled, Defendants respectfully request an extension of the dispositive motion deadline to July 31, 2008.

7. No prior extensions have been requested.

8. Pursuant to Section 9 (b) of this Court's Uniform Scheduling Order, the undersigned counsel, Joana S. Ellis, avers that she has spoken with Plaintiff's counsel regarding this Motion to extend the dispositive motion deadline and that Plaintiff's counsel has no objection.

9. In addition, Defendants request that, pursuant to Rule 30(d)(1) of the *Federal Rules of Civil Procedure*, the duration of the Plaintiff's deposition be extended beyond 7 hours due to the need to extensively question the Plaintiff about the medical treatment that has been and is being provided to her by numerous medical care providers, which Plaintiff claims resulted from the termination of her employment.

10. Defendants respectfully submit that 7 hours will not be a sufficient amount of time to fully and fairly examine the Plaintiff regarding the bases for her allegations against eight Defendants concerning her termination, her alleged mental and physical conditions and the numerous documents pertinent to the claims and defenses alleged in the lawsuit.

11. The undersigned counsel, Joana S. Ellis, avers that she has spoken with Plaintiff's counsel about this Motion for additional time to depose his client, and he has no objection, with the condition and understanding that defense counsel will not prolong the number of consecutive hours of questioning the Plaintiff. For example, counsel for Defendants have agreed to depose the Plaintiff for several hours at a time on separate days if such breaks are requested by Plaintiff's counsel.

WHEREFORE, based upon the above-stated grounds, Defendants respectfully move this Honorable Court for an extension of the date for filing dispositive motions as well as the extension of the length of time during which Plaintiff's deposition may be taken.

Respectfully submitted,

s/ Joana S. Ellis  
JOANA S. ELLIS (ELL014)  
ALICE ANN BYRNE (BYR015)  
Attorneys for Defendants Graham,  
The Personnel Board of the State of  
Alabama, Dickson, McMillan,  
O'Neal, McNair, and Anderson

OF COUNSEL:

Alabama State Personnel Department  
Legal Division  
64 North Union Street  
Folsom Administrative Bldg., Suite 316  
Montgomery, Alabama 36130  
Telephone: (334) 353-0046  
Facsimile: (334) 353-4481  
Email: joana.ellis@personnel.alabama.gov

s/ Joel Marsh

**JOEL MARSH**

Attorney for Defendant Walley

OF COUNSEL:

Alabama Department of Human Resources  
Post Office Box 30400  
Montgomery, Alabama 36130  
Telephone: (334) 242-9330  
Facsimile: (334) 242-0689  
Email: joel.marsh@dhr.alabama.gov

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon the following by email and First Class United States mail, properly addressed and postage prepaid on this the 1<sup>st</sup> day of May 2008.

Jim L. DeBardelaben, Esq.  
Attorney at Law  
Post Office Box 152  
Montgomery, Alabama 36101-0152

s/ Joana S. Ellis

OF COUNSEL